IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1718 OF 2006
IN
CIVIL APPLICATION NO. 5497 OF 2006
IN
FIRST APPEAL NO. 118 OF 1990

Shri Uttamlal Lalubhai Malani ... Applicant

V/s.

The Foreign Exchange Regulation ... Opponents
Appellate Board and Anr.

Ms. Nisha Valani for the applicant.
Mrs. N.V. Masurkar for the opponents.

CORAM : H.L. GOKHALE &
V.R. KINGAONKAR,JJ.
DATED : 21st July, 2006

P.C.

. Heard Ms. Valani in support of this application. Mr. Masurkar appears for the respondents. The application seeks restoration of appeal which came to be dismissed for default on 21st November, 2005. Ms. Velani states that the earlier advocate did not remain present and that is how the matter came to be dismissed. She submits that the applicant should not suffer for the fault of the advocate.

2. Mr. Masurkar opposes restoration. Even so, considering that appeal had been admitted earlier, with a view not to do unjustice to the applicant, we

recall the order for dismissal. The appeal will stand restored to the file.

3. Ms. Velani prays that the stay granted on 13th March, 1990 be restored. That cannot be done inasmuch as after the appeal having been dismissed, the respondents have encashed the Bank Guarantee and they have already withdrawn the amount. Prayer (c) applies that the respondents be restrained from encashing the Bank Guarantee. Inasmuch as the same is already encashed, there is no question of restoration of interim relief. In the event appeal succeeds, appropriate order will be passed therein.

4. The Civil Application partly allowed.

[H.L. GOKHALE, J.]

[V.R. KINGAONKAR, J.]